

REMARKS

Claims 32-34 and 36-44 are pending. The Final Action dated May 3, 2004 in this Application has been carefully considered. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 32, 37, 43, and 44 have been amended in this Response. Claim 36 has been determined by the Examiner to be in condition for the allowance. Applicant thanks the Examiner. Reconsideration and allowance are respectfully requested in light of the above amendments and following remarks.

Claim 32 stands rejected under 35 U.S.C. §112, second paragraph, as being assertedly indefinite. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Specifically, “imposing a minimum heartbeat period on the single selected computer based on reliability of the connection between the server and one or more computers in the group” has been deleted from Claim 32. Accordingly, Applicant respectfully requests that the rejection of amended Claim 32 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claim 44 stands rejected under 35 U.S.C. §112, second paragraph, as being assertedly indefinite. Insofar as it may be applied against the Claim, this rejection is deemed overcome. Specifically, “imposing a minimum heartbeat period on the single selected computer based on reliability of the connection between the server and one or more computers in the group” has been deleted from Claim 32. Accordingly, Applicant respectfully requests that the rejection of amended Claim 32 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claims 32 stands rejected under 35 U.S.C. §103(a) in view of U.S. Patent No. 5,938,732 to Lim et al. (“Lim”) and U.S. Patent No. 6,427,163 to Arendt et al. (“Arendt”). Insofar as it may be applied against the Claim, this rejection is deemed overcome.

Rejected independent Claim 32 as now amended more particularly recites one of the distinguishing characteristics of the present invention, namely, “providing an acknowledgement to the message by the single selected computer.” Support for this Amendment can be found, among other places, page 40, lines 4-17, of the original Application.

Specifically, neither Lim nor Arendt teach, disclose, or suggest the use of an acknowledgement with an unavailable resource. Lim discloses the following:

[A] total failure is detected if no heartbeat signal occurs within a timeout interval. The frequency of transmission of the info message/heartbeat and the timeout interval may be adjusted by the operator to optimize system operation. Additionally, a host may experience service failures, which occur when a host can no longer provide a service due to partial failure. These failures may be transient or persistent, and may involve software or hardware failures such as resource exhaustion or corrupted data, among others. (Column 8, lines 26-35.)

However, there is neither the generation nor provision of an acknowledgement of resource unavailability. Arendt describes the point-to-point communications. By issuing an acknowledgement, the network can operate more efficiently because latencies that can be introduced from set intervals can be eliminated.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 32. Applicant therefore submit that amended Claim 32 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicant respectfully requests that the rejection of amended Claim 32 under 35 U.S.C. § 103(a) in view of Lim and Arendt be withdrawn and that Claim 32 be allowed.

Claims 33 and 34 stand rejected under 35 U.S.C. §103(a) in view of Lim and Arendt and further in view of U.S. Patent No. 6,370,656 to Olairg et al. (“Olairg”). Insofar as they may be applied against the Claims, these rejections are deemed overcome.

Claims 33 and 34 depend on and further limit Claim 32. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for allowance. Applicant respectfully requests that the rejections of dependent Claims 33 and 34 also be withdrawn.

Claims 37-42 stand rejected under 35 U.S.C. §103(a) in view of Lim and Arendt. Insofar as they may be applied against the Claim, these rejections are deemed overcome.

Applicant contends that the rejection of amended Claim 37 is deemed overcome for at least some of the reasons that the rejection of Claim 32 as amended is deemed overcome. These reasons include neither Lim nor Arendt disclosing, teaching, or suggesting “determining from the presence or absence of the heartbeat messages that all computer resources are available or unavailable, *wherein acknowledgements of unavailability to computers that indicate unavailability are provided.*” (Emphasis added.) Applicant therefore respectfully submits that amended Claim 37 is clearly and precisely distinguishable over the cited references in any combination.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 37. Applicant therefore submit that amended Claim 37 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicant respectfully requests that the rejection of amended Claim 37 under 35 U.S.C. § 103(a) in view of Lim and Arendt be withdrawn and that Claim 37 be allowed.

Claims 38-42 depend on and further limit Claim 37. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for allowance. Applicant respectfully requests that the rejections of dependent Claims 38-42 also be withdrawn.

Claim 43 stands rejected under 35 U.S.C. §103(a) in view of Lim and Arendt. Insofar as it may be applied against the Claim, this rejection is deemed overcome.

Applicant contends that the rejection of amended Claim 43 is deemed overcome for at least some of the reasons that the rejection of Claim 32 as amended is deemed overcome. These reasons include neither Lim nor Arendt disclosing, teaching, or suggesting “transmitting the message to the one or more selected servers, *wherein acknowledgements of unavailability to computers that indicate unavailability are provided.*” (Emphasis added.) Applicant therefore respectfully submits that amended Claim 43 is clearly and precisely distinguishable over the cited references in any combination.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 43. Applicant therefore submit that amended Claim 43 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicant respectfully requests that the rejection of amended Claim 43 under 35 U.S.C. § 103(a) in view of Lim and Arendt be withdrawn and that Claim 43 be allowed.

Claim 44 stands rejected under 35 U.S.C. §103(a) in view of Lim and Arendt. Insofar as it may be applied against the Claim, this rejection is deemed overcome.

Applicant contends that the rejection of amended Claim 44 is deemed overcome for at least some of the reasons that the rejection of Claim 32 as amended is deemed overcome. These reasons include neither Lim nor Arendt disclosing, teaching, or suggesting “transmitting the message to the one or more selected servers, *wherein acknowledgements of unavailability to computers that indicate unavailability are provided.*” (Emphasis added.) Applicant therefore respectfully submits

that amended Claim 44 is clearly and precisely distinguishable over the cited references in any combination.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 44. Applicant therefore submit that amended Claim 44 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicant respectfully requests that the rejection of amended Claim 44 under 35 U.S.C. § 103(a) in view of Lim and Arendt be withdrawn and that Claim 44 be allowed.

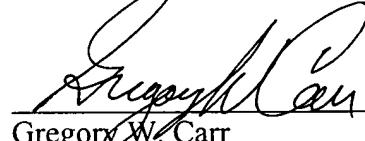
Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 32-34 and 36-44.

Applicant does not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

CARR LLP



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